

Appl. No. 10/775,332
Reply to Office Action of Mar. 2, 2006
Attorney Docket No. 25807X

Amendments to the Drawings:

A replacement sheet of drawings is included in an Appendix, which begins on page 17 of this paper. The attached sheet includes changes to figure 4. This sheet replaces the original drawing of figure 4.

REMARKS/ARGUMENTS

Claims 1 – 10, 20 – 24, 30 – 33 and 35 – 44 are presented for reconsideration and further examination in view of the foregoing amendments and following remarks. Claims 19, 25 – 29 and 34 have been cancelled without prejudice or disclaimer to the subject matter contained therein. Claim 45 is newly added.

In the outstanding Office Action, the Examiner indicated that claims 29 – 33 and 35 – 37 are allowable if rewritten in independent form; objected to the drawings; rejected claim 34 under 35 U.S.C. §112, first paragraph; rejected claims 1, 3, 10, 14, 19, 20, 24, 32, 40 and 43 under 35 U.S.C. §112, second paragraph; provisionally rejected claims 1, 3, 4, 6, 8 – 10, 13 – 15, 18 – 20, 38 – 41 and 43 as claiming the same invention as that of claims 1 – 3, 5, 7 – 9, 12, 14, 17 – 19 and 23 – 27 of copending application no. 10/700,341; rejected claims 1, 3, 4, 6, 8 – 10, 13, 15, 18, 19, 38 – 40, 43 and 44 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,535,912 to Bonk (hereinafter referred to as “the Bonk ‘912 patent”); rejected claims 1, 3, 6, 8 – 10, 13, 15, 18, 19, 24 – 27, 38 – 41, 43 and 44 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,499,626 to Julius (hereinafter referred to as “the Julius ‘626 patent”); rejected claims 1, 3, 6, 8 – 10, 13, 15, 18, 19, 38 – 41, 43 and 44 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,526,291 to Margulies (hereinafter referred to as “the Margulies ‘291 patent”); and rejected claims 24 – 28 under 35 U.S.C. §103(a) as being unpatentable over the Margulies ‘291 patent in view of the Julius ‘626 patent.

By this Response and Amendment, replacement drawings have been submitted, claim 1 has been amended to include the feature of allowable claim 29 and the features of the base claims from which claim 29 depends; claims 40 and 43 have been amended to incorporate the features of

allowable claims 28 and 29; and claim 45 has been added and includes the features of allowable claims 28 and 29.

It is respectfully submitted that the above amendments and corrections do not introduce any new matter to this application within the meaning of 35 U.S.C. §132.

Objection to the Drawings

The Examiner objected to the drawings for not showing a “foil” as recited in claim 19; a “serrated” edge as recited in claim 34; a “lid” as recited in claims 3, 40 and 43; and a “disposable package” as recited in claims 13, 38, 39 and 43.

Response

By this Response and Amendment, claims 19 and 34 have been cancelled thereby rendering the objections thereto moot.

Applicant respectfully submits that a “lid” is shown in figure 3c of the originally filed application as element no. 100. Replacement drawing figure 4 shows a disposable package as element no. 105.

Accordingly, reconsideration and withdrawal of the objections are respectfully requested.

Rejections Under 35 U.S.C. 112

1. First Paragraph

The Examiner rejected claim 34 as failing to comply with the enablement requirement.

Response

By this Response and Amendment, claim 34 has been cancelled thereby rendering the rejection thereto moot.

Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

2. Second Paragraph

The Examiner rejected claims 1, 3, 10, 14, 19, 20, 24, 32, 40 and 43 as being indefinite for the various reasons set forth in the Office Action.

Response

By this Response and Amendment, Applicants have amended the claims to obviate the Examiner's rejections under 35 U.S.C. §112, Second Paragraph.

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejections.

Double Patenting Rejections

The Examiner provisionally rejected claims 1, 3, 4, 6, 8 – 10, 13 – 15, 18 – 20, 38 – 41 and 43 as claiming the same invention as that of claims 1 – 3, 5, 7 – 9, 12, 14, 17 – 19 and 23, 27 of copending application no. 10/700,341.

Response

Applicant respectfully submits that, since the double patenting rejection is not directed

toward any of claims 24 – 37, and since the independent claims of the present application now recite the features of at least allowable claim 29, the double patenting rejection is rendered moot.

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection.

Rejections Under 35 U.S.C. §102(b), 102(e) and 103(a)

The Examiner rejected claims 1, 3, 4, 6, 8 – 10, 13, 15, 18, 19, 38 – 40, 43 and 44 as being anticipated by the Bonk '912 patent; rejected claims 1, 3, 6, 8 – 10, 13, 15, 18, 19, 24 – 27, 38 – 41, 43 and 44 as being anticipated by the Julius '626 patent; rejected claims 1, 3, 6, 8 – 10, 13, 15, 18, 19, 38 – 41, 43 and 44 as being anticipated by the Margulies '291 patent; and rejected claims 24 – 28 as being unpatentable over the Margulies '291 patent in view of the Julius '626 patent.

Response

By this Response and Amendment, claim 1 has been amended to incorporate the features of allowable claim 29 and the base claims from which claim 29 depends. Thus, claim 1 and the claims dependent thereon are asserted to be patentable over the cited prior art as indicated by the Examiner in the Office Action.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejections.

MISCELLANEOUS

Applicants assert that newly added claim 45 is patentable over the cited prior art since it contains the features of allowable claims 28 and 29 reciting "wherein said tissue dispensing aperture is defined by a first edge movable with said flap, and a second edge which is fixed to a frame; and wherein the first edge comprises an outer edge formed on said flap, and the second edge comprises an inner edge defined by a tab comprised on said frame and located between spaced hinges."

CONCLUSION

In light of the foregoing, Applicants submit that the application is now in condition for allowance. If the Examiner believes the application is not in condition for allowance, Applicants respectfully request that the Examiner contact the undersigned attorney if it is believed that such contact will expedite the prosecution of the application.

In the event this paper is not timely filed, Applicants petition for an appropriate extension of time. Please charge any fee deficiency or credit any overpayment to Deposit Account No. 14-0112.

Respectfully submitted,
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APPENDIX

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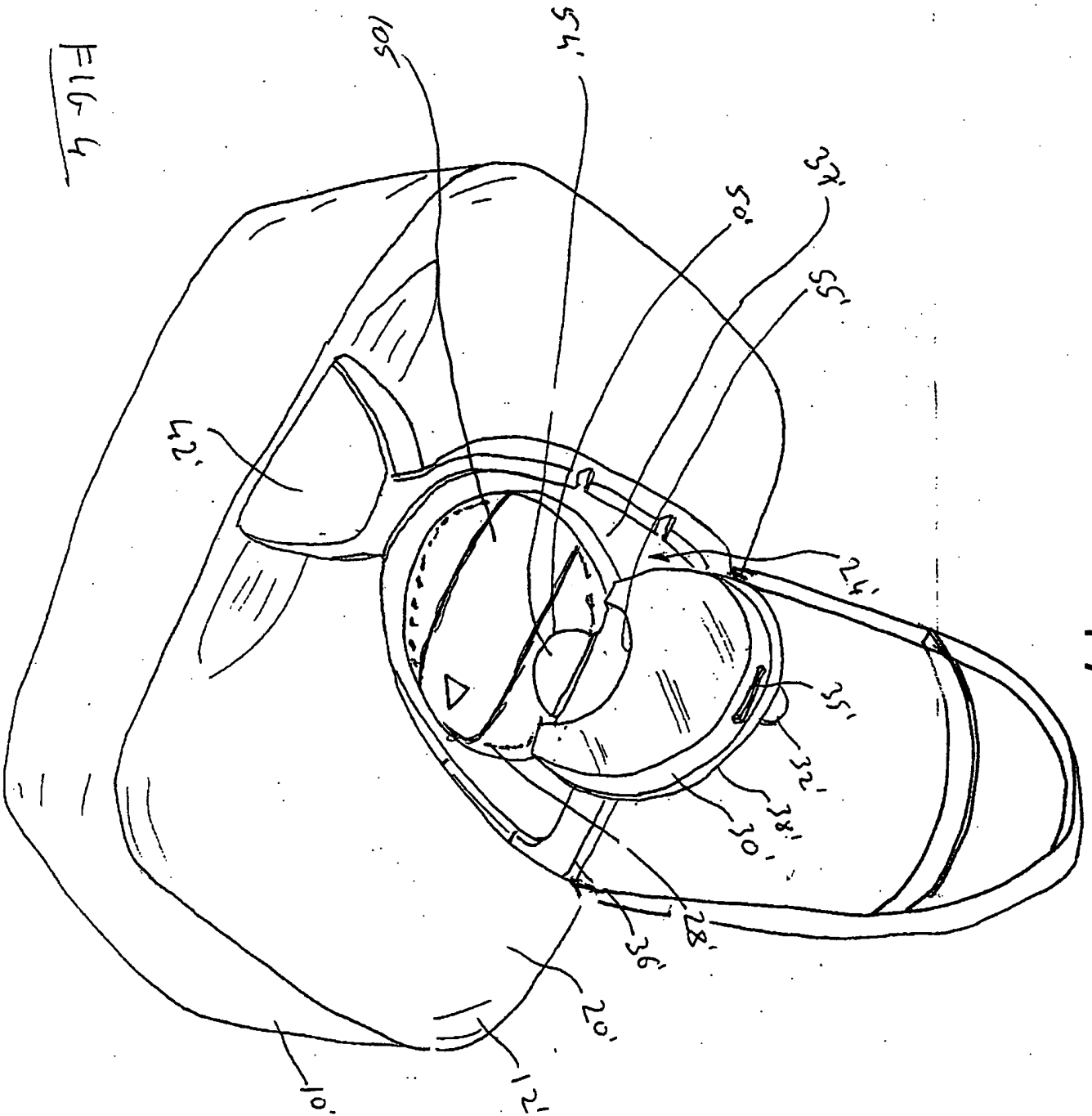


FIG 4